

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

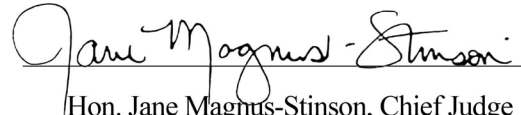
UNITED STATES SECURITIES AND EXCHANGE)	
COMMISSION,)	
<i>Plaintiff,</i>)	
)	1:15-cv-00758-JMS-MJD
vs.)	
)	
ITT EDUCATIONAL SERVICES, INC., KEVIN M.)	
MODANY, and DANIEL M. FITZPATRICK,)	
<i>Defendants.</i>)	

ORDER

On May 16, 2018, Plaintiff United States Securities and Exchange Commission (“SEC”) filed a Notice of Stipulation of Dismissal of Certain Claims in which it advised that it was dismissing several claims with prejudice against Defendants Kevin Modany and Daniel Fitzpatrick in advance of the July 9, 2018 jury trial scheduled in this matter. [[Filing No. 273](#).] The Court acknowledges the Stipulation, but treats it as a Motion to Amend the Complaint pursuant to the Seventh Circuit Court of Appeals’ instruction. *See Taylor v. Brown*, 787 F.3d 851, 857-58 (7th Cir. 2015) (dismissal by plaintiff without a court order under Fed. R. Civ. P. 41(a)(1) is limited to situations where plaintiff is dismissing all claims; dismissal of only certain claims is appropriately accomplished through a motion to amend under Fed. R. Civ. P. 15(a)). The SEC’s Notice of Stipulation, treated as a Motion to Amend the Complaint, is **GRANTED**. [273].

For purposes of clarity moving forward, the SEC is **ORDERED** to file an Amended Complaint, which includes only the claims that remain pending for the July 9, 2018 trial, by **June 8, 2018**. This Order does not affect any pretrial deadlines previously set by the Court, which will not be extended except upon a showing of exceptional circumstances. The parties should proceed with pretrial preparation based on the claims that remain pending according to the Notice of Stipulation.

Date: 5/17/2018

A handwritten signature in black ink, reading "Jane Magnus-Stinson". The signature is written in a cursive style with a large initial "J" and a long horizontal line extending from the end of the name.

Hon. Jane Magnus-Stinson, Chief Judge
United States District Court
Southern District of Indiana

Distribution via ECF only to all counsel of record